

Memorandum



Date: March 8, 2005

INLUC

Agenda Item No. 2 (J)

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George A. Burgess
County Manager

Subject: Lease Agreement at 14150 S.W. 129 Street, Miami for Public Works Department
Property # 5915-00-00

The attached Lease Agreement has been prepared by the General Services Administration at the request of the Public Works Department and is recommended for approval.

PROPERTY: 14150 SW 129 Street, Building 242, Hangar # 441, Miami.

OWNER: Miami-Dade County, Aviation Department (MDAD)

SUB-LESSOR: Falcon Trust Air, a Florida Limited Liability Company, through a 30 year lease with MDAD. There are 27 years remaining in the term.

COMPANY PRINCIPAL: General Partner:
Albert Sotero 50%
Edward Sotero 50%

USE: 1,760 square feet of aircraft hangar space.

JUSTIFICATION: The Public Works Department, Mosquito Control Division is in need of a more suitable location to store its helicopter. The helicopter must be kept in a hangar to deter theft, and to protect it from the harmful effects of moisture and the sun, which can deteriorate the finish and harm the flight instruments.

The helicopter is currently stored in its Mosquito Control hangar; however, in order for the helicopter to fit inside the hangar, one or more of the main rotor blades have to be removed each time the helicopter is moved into the hangar. There is an inherent risk of damage to the blades during the removal/installation process. The proposed hangar is large enough to accommodate the helicopter without having to remove the blades. Public Works intends to use the vacated hangar for office space and equipment storage.

LEASE TERM: Five years with two additional two-year renewal option periods.

RENTAL RATE:

Annual rent is \$10,800.00, which is equal to \$900.00 per month. The annual base rent for the second year of the initial lease term and any subsequent lease year shall increase by the Consumer Price Index (CPI), if such rent adjustment occurs. In no event shall the rent adjustment exceed five (5%) per year.

The total financial impact for the first year of the lease is estimated to be \$11,664.00, as follows:

Annual Rent	\$10,800.00
Lease Management	<u>\$ 864.00</u>
Total Estimate	\$11,664.00

LEASE CONDITIONS:

Full service lease, including electricity, janitorial and custodial services.

EFFECTIVE DATES:

Commencing upon the effective date of the resolution of the Board of County Commissioners approving this lease agreement, acceptance of leased space and terminating five years thereafter.

CANCELLATION PROVISION:

Tenant may cancel at any time, after the first year of the initial lease term, with 30 days prior written notice.

FUNDING SOURCE:

General Funds. This item has been budgeted by the Public Works Department.

OTHER PROPERTIES
EVALUATED:

No comparable properties were able to be identified. Aircraft hangar space is found primarily in airports, which limits the availability of comparable properties.


Assistant County Manager




MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: April 5, 2005

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No.

Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF A LEASE AGREEMENT AT 14150 S. W. 129 STREET, MIAMI, WITH FALCON TRUST AIR, A FLORIDA LIMITED LIABILITY COMPANY, FOR PREMISES TO BE UTILIZED AS AIRCRAFT HANGAR SPACE BY THE PUBLIC WORKS DEPARTMENT, MOSQUITO CONTROL DIVISION; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Lease Agreement between Miami-Dade County and Falcon Trust Air, a Florida Limited liability Company, for premises to be utilized as aircraft hangar space by the Public Works Department, Mosquito Control Division, in substantially the form attached hereto and made a part hereof; authorizes the County Manager to execute same for and on behalf of Miami-Dade County; and authorizes the County Manager to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner
_____, who moved its adoption. The motion was seconded by Commissioner
_____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Dorrian D. Rolle
Katy Sorenson
Sen. Javier D. Souto

Dr. Barbara Carey-Shuler
Carlos A. Gimenez
Barbara J. Jordan
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this
5th day of April, 2005. This Resolution and contract, if not vetoed, shall become
effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency. JB

By: _____
Deputy Clerk

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LEASE AGREEMENT

THIS AGREEMENT made on the day of , 2005, by and between FALCON TRUST AIR, a Florida Limited Liability Company (hereinafter called the "LANDLORD,") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, hereinafter called the "TENANT,"

WITNESSETH:

That LANDLORD, for and in consideration of the restrictions and covenants herein contained, hereby leases to TENANT and TENANT hereby agrees to lease from LANDLORD the Demised Premises described as follows:

1,760 rentable square feet consisting of an aircraft hangar space to store a helicopter for the Mosquito Control Division of the Public Works Department. The hangar is # 441 located in Building 242. The hangar is located at Kendall-Tamiami Executive Airport Falcon Trust Air, 14150 SW 129 Street, Miami, Florida 33186.

TO HAVE AND TO HOLD unto the said TENANT for a term of five (5) years commencing on the later of (1) the effective date of the resolution of the Board of County Commissioners approving this lease agreement, and (2) the acceptance of leased space by TENANT, (the "Commencement Date"), and terminating five years thereafter for an annual base rent of Ten Thousand Eight Hundred Dollars 00/100 (\$10,800.00) for the first year, payable in equal monthly installments of Nine Hundred Dollars and 00/100 (\$900.00), payable in advance on the first day of every month to: Falcon Trust Air, Kendall-Tamiami Executive Airport, 14150 SW 129th Street, Miami, Florida 33186, or at such other place and to such other person as LANDLORD may from time to time designate in writing, as set forth herein.

IT IS FURTHER MUTUALLY UNDERSTOOD AND AGREED BY THE RESPECTIVE PARTIES HERETO:

ARTICLE I
USE OF DEMISED PREMISES

The area of the Demised Premises shall be used by TENANT for the performance of County business by County departments, agencies, and authorities and for the performance of work incidental thereto, which will necessarily entail services performed for the general public.

ARTICLE II
CONDITION OF PREMISES

TENANT hereby accepts the Demised Premises to be in a state of good repair and suitable for usage by TENANT at the commencement of this Lease Agreement.

ARTICLE III
UTILITIES

LANDLORD, during the term hereof, shall pay all charges for electricity, water and waste disposal services.

ARTICLE IV
MAINTENANCE

LANDLORD agrees to provide, repair or replace, as necessary, and maintain and keep in good repair, condition, and appearance, during the term of this Lease Agreement or any extension or renewal thereof, the interior and exterior of the building and the following:

Plumbing and electrical lines, fixtures, and equipment;
Halls, stairways, lavatories;
Trash and refuse disposal;
Air-conditioning and heating equipment;
Roof and roof leaks;
Sliding hangar doors, doors & frames;
Fire equipment, including inspection as required by applicable fire codes.

LANDLORD, at its sole cost and expense, shall perform or cause to be performed in the Demised Premises during the term of this Lease Agreement (except for Saturdays, Sundays, and holidays) the aforementioned maintenance.

Upon the failure of LANDLORD to effect repairs or perform the above-stated services pursuant to this Lease Agreement after five (5) days' written notification to do so by TENANT, TENANT may cause

the repairs to be made and deduct their cost from the rental payments due and to become due until in each instance TENANT has fully recovered such costs in accordance with audited costs of repair furnished by TENANT to LANDLORD. In the event of an emergency, TENANT after proper notification to the LANDLORD and failure of the LANDLORD to take immediate action, may perform repairs that are the LANDLORD's responsibility and receive a credit against rental payments or a cash reimbursement from LANDLORD for the actual costs thereof. During the term of this Lease Agreement or any renewal thereof, in TENANT's reasonable judgment a condition exists with respect to any matter in which the LANDLORD is obligated to maintain, that which adversely affects TENANT's operations, and after proper notice, LANDLORD fails to repair same as required, TENANT may make such repairs and deduct the cost thereof from rental payments or any other amounts due to LANDLORD hereunder. All of the aforesaid repairs shall be made with reasonable diligence and in a good and workmanlike manner.

ARTICLE V **ALTERATIONS BY TENANT**

TENANT, at its expense, may install and maintain an air-conditioning system to the warehouse section of the Demised Premises. The air-conditioning system and any removable partitions installed by TENANT within the Demised Premises shall remain TENANT's property and may be removed by TENANT upon the expiration of the Lease Agreement or any renewal or cancellation thereof.

ARTICLE VI **DESTRUCTION OF PREMISES**

In the event the Demised Premises should be destroyed or so damaged by fire, windstorm, or other casualty to the extent that the demised premises are rendered untenable or unfit for the purpose of Tenant, either party may cancel this Lease Agreement by the giving of written notice to the other. However, if neither party shall exercise the foregoing right of cancellation within sixty (60) days after the date of such destruction or damage, LANDLORD shall cause the building and Demised Premises to be repaired and placed in good condition as soon as practical thereafter. In the event of cancellation, TENANT shall be liable for rents only until the date of such fire, windstorm, or other casualty. In the event of partial destruction which shall not render the Demised Premises wholly untenable, the rents shall be proportionately abated in accordance with the extent to which TENANT shall be deprived of use and occupancy. TENANT shall not be liable for rent during such period of time, as the Demised Premises

shall be totally untenable by reason of fire, windstorm, or other casualty.

ARTICLE VII **DISABLED INDIVIDUALS**

LANDLORD understands, recognizes, and warrants to the best of its knowledge that all common areas are, and shall at all times be maintained, in accordance with the requirements for disabled individuals contained in the Americans with Disabilities Act of 1990 (the "ADA") and Section 553.501 et seq. of the Florida Statutes, as presently written and as may be hereafter amended.

LANDLORD further warrants that the Demised Premises and access thereto, including but not limited to rest rooms, hallways, entryways to the street, and accessible parking, if parking is provided under the Lease Agreement, shall be in compliance with the accessibility standards for government programs contained in the ADA and all requirements of Section 553.501 et seq. of the Florida Statutes. LANDLORD covenants and agrees that the Demised Premises and access thereto shall at all times be maintained in accordance with the requirements of Section 255.21 of the Florida Statutes at LANDLORD's cost and expense, except where changes are required as a result of TENANT's change in program or work force.

LANDLORD agrees to correct any and all violations of the obligations of LANDLORD under this Section within thirty (30) days of written notice by TENANT of the existence of the same, provided that, if such violations cannot feasibly be corrected within said thirty (30) day period, then LANDLORD agrees to commence such repairs within said thirty (30) day period and to diligently pursue the completion of same within a reasonable period thereafter.

LANDLORD recognizes and agrees that throughout the term of the Lease Agreement, TENANT may in its discretion change its employees or programs which operate from the leased premises. LANDLORD agrees that TENANT may, at TENANT's expense, and subject to LANDLORD's prior reasonable approval, make such changes to the leased premises or the access thereto as may be required by TENANT to accommodate disabled individuals or to provide program accessibility in connection with any such change in TENANT's programs or work force.

ARTICLE VIII **NO LIABILITY FOR PERSONAL PROPERTY**

All personal property placed or moved in the premises above described shall be at the risk of TENANT or the owner thereof. LANDLORD shall not be liable to TENANT for any damage to said

personal property unless caused by or due to negligence or willful misconduct of LANDLORD, LANDLORD's agents or employees.

ARTICLE IX **SIGNS**

Exterior signs will be of the design and form of letter to be first approved by LANDLORD, the cost of painting to be paid by TENANT. All signs shall be removed by TENANT at termination of this Lease Agreement and any damage or unsightly condition caused to building because of or due to said signs shall be satisfactorily corrected or repaired by TENANT.

ARTICLE X **LANDLORD'S RIGHT OF ENTRY**

LANDLORD or any of its agents shall have the right to enter said Demised Premises during all reasonable working hours, upon the giving of twenty-four (24) hours' prior notice, unless an emergency exists, to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof of said building or to exhibit said Demised Premises and to put or keep upon the doors or windows thereof a notice "FOR RENT" at any time within Ninety (90) days before the expiration of this Lease Agreement.

ARTICLE XI **LIABILITY FOR DAMAGE OR INJURY**

TENANT shall not be liable for any damage or injury which may be sustained by any party or person on the Demised Premises other than the damage or injury caused solely by the negligence of TENANT, subject to all limitations of Florida Statutes, Section 768.28.

ARTICLE XII **PEACEFUL POSSESSION**

Subject to the terms, conditions, and covenants of this Lease Agreement, LANDLORD agrees that TENANT shall and may peaceably have, hold, and enjoy the Demised Premises above described, without hindrance or molestation by LANDLORD.

ARTICLE XIII
SURRENDER OF PREMISES

TENANT agrees to surrender to LANDLORD at the end of the term of this Lease Agreement, or any extension thereof, said leased Demised Premises in as good condition as said Demised Premises were at the beginning of the term of this Lease Agreement, ordinary wear and tear and damage by fire and windstorm or other acts of God excepted.

ARTICLE XIV
INDEMNIFICATION AND HOLD HARMLESS

TENANT does hereby agree to indemnify and hold harmless the LANDLORD to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the TENANT shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgments or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise solely as a result of the negligence of the TENANT. However, nothing herein shall be deemed to indemnify the LANDLORD from any liability or claim arising out of the negligent performance or failure of performance of the LANDLORD or any unrelated third party.

ARTICLE XV
SUCCESSORS IN INTEREST

It is hereby covenanted and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Lease Agreement shall extend to and be binding on the respective successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

ARTICLE XVI
ASSIGNMENT BY LANDLORD

If the interests of LANDLORD under this Lease Agreement shall be transferred voluntarily or by reason of foreclosure or other proceedings for enforcement of any mortgage on the Demised Premises, TENANT shall be bound to such transferee (herein sometimes called the "Purchaser") for the balance of the term hereof remaining, and any extension or renewals thereof which may be effected in accordance

with the terms and provisions hereof, with the same force and effect as if the Purchaser were the LANDLORD under this Lease Agreement, and TENANT does hereby agree to attorn to the Purchaser, including the Mortgagee under any such mortgage if it be the Purchaser, as its LANDLORD, said attornment to be effective and self-operative without the execution of any further instruments upon the Purchaser succeeding to the interest of the LANDLORD under this Lease Agreement. The respective rights and obligations of TENANT and the Purchaser upon such attornment, to the extent of the then remaining balance of the term of this Lease Agreement and any such extensions and renewals, shall be and are the same as those set forth herein. In the event of such transfer of LANDLORD's interests, LANDLORD shall be released and relieved from all liabilities and responsibility to TENANT thereafter accruing under this Lease Agreement or otherwise and LANDLORD's successor by acceptance of rent from TENANT hereunder shall become liable and responsible to TENANT in respect to all obligations of the LANDLORD under this Lease Agreement. Notwithstanding any law to the contrary, LANDLORD and TENANT agree that the rights created by this Lease Agreement shall not be subordinate to any other instruments affecting the Demised Premises, such as mortgages, subsequent purchase agreements, or encumbrances, whether presently in existence or later created or filed.

ARTICLE XVII **NON-DISTURBANCE**

The Lease Agreement shall be subordinate and subject to all ground or underlying leases and mortgages covering the fee of the property, or which at any time thereafter affect the property, and to all renewals, modifications, or replacements thereof; provided, however, that with respect to any ground lease agreement, underlying lease agreement, or mortgage subsequent to the date of this Lease Agreement, such subordination shall not be effective unless and until landlord shall obtain from any and all such ground lessors, underlying lessors, and/or lenders a written agreement with tenant wherein any and all such ground lessors, underlying lessors, and/or lenders shall agree that the Lease Agreement shall not be divested or in any way affected by foreclosure, other default proceedings, or other succession in interest by or under any ground lease agreement, lease agreement mortgage, or obligation secured thereby, so long as tenant complies with the terms, conditions, and covenants of this Lease Agreement and performs its obligations under this Lease Agreement (said agreement being referred to herein as a "Non-Disturbance Agreement"). If landlord shall so fail to obtain a Non-Disturbance Agreement from any ground lessor, holder of any mortgage, or underlying lessor, then the parties recognize that this Lease Agreement shall be and remain superior to any such ground lease agreement, underlying lease agreement, and/or mortgage entered into or

executed subsequent to the date of this Lease Agreement. Further, with respect to any and all existing ground lease agreement, underlying lease agreement, and/or mortgage, prior to the commencement of the construction of LANDLORD's Work landlord shall obtain from any and all ground lessors, underlying lessors, and/or lenders a Non-Disturbance Agreement. LANDLORD and TENANT agree that the terms, conditions, and covenants contained here in shall not be altered or affected by any subsequent change in ownership of the Property by reason of foreclosure, conveyance, or otherwise. Any document purporting to transfer ownership in the Property, whether presently in existence or not, shall be subordinate to this Agreement, and subject to the terms, obligations, and covenants herein. In the event that a change of ownership in the Property results in any additional costs to TENANT by material alteration of the terms of this Agreement, LANDLORD agrees to indemnify TENANT for such costs.

ARTICLE XVIII **OPTION TO RENEW**

Provided this Lease Agreement is not otherwise in default, TENANT, through its County Manager or his designee, is hereby granted the option to extend this Lease Agreement for two (2) additional two (2) year renewal option periods, upon the same terms and conditions, except that the rental rate shall be adjusted each renewal period in accordance with the Consumer Price Index (CPI) as outlined in ARTICLE XIX, "Rent Adjustment" by giving LANDLORD notice in writing at least sixty (60) days prior to the expiration of this lease agreement or any extension thereof. Should TENANT neglect to exercise any extension option by the date specified above, TENANT's right to exercise shall not expire until thirty (30) business days after notice from LANDLORD of TENANT's failure to exercise the option.

ARTICLE XIX **RENT ADJUSTMENT**

The base rent for the second year of the initial Lease term and for each year thereafter shall be computed by multiplying the initial base rent of \$10,800.00 by a fraction whose numerator shall be the Consumer Price Index (CPI) the month which is two months prior to the first day of such period and whose denominator shall be the CPI for April 2005. For purposes hereof, the Consumer Price Index to be used shall be the National Consumer Price Index for all Wage Earners & Clerical Workers, U.S. City Average (All items: 1982-84=100) issued by the U.S. Department of Labor, Bureau of Labor Statistics or any successor agency of the United States that shall issue indexes or data of similar type. The LANDLORD shall notify the TENANT of the adjusted monthly rent, in writing, prior to the respective anniversary date,

if such rent adjustment occurs. In no event shall the rent adjustment exceed five percent (5%) per annum, or be less than the rent for the immediately preceding year.

ARTICLE XX **CANCELLATION**

TENANT, through its County Manager or his designee, shall have the right to cancel this Lease Agreement at any time after the first year of the initial lease term, by giving LANDLORD at least thirty (30) days' written notice prior to its effective date.

ARTICLE XXI **NOTICES**

It is understood and agreed between the parties hereto that written notice addressed and sent by certified or registered mail, return receipt requested, first class, postage prepaid and addressed as follows:

TENANT:

Real Estate Management Section
Facilities, Utilities and Management Division
General Services Administration
111 NW First Street, Suite 2460
Miami, Florida 33128

LANDLORD:

Falcon Trust Air, L.L.C.
Kendall-Tamiami Executive Airport
14150 SW 129th Street
Miami, Florida 33186

shall constitute sufficient notice to TENANT, and written notice addressed to LANDLORD, and mailed or delivered to the address as stated above, shall constitute sufficient notice to LANDLORD to comply with the terms of this Lease Agreement. Notices provided herein in this paragraph shall include all notices required in this Lease Agreement or required by law.

ARTICLE XXII
HOLDOVER

If TENANT, with LANDLORD's consent, remains in possession of the premises after expiration of the term and if LANDLORD and TENANT have not executed an expressed written agreement as to such holding over, then such occupancy shall be a tenancy from month to month at a monthly rental for the first month, after expiration of the term, equivalent to one hundred percent (100%) of the monthly rental in effect immediately prior to expiration, such payments to be made as herein provided. In the event of such holding over, all of the terms of the Lease Agreement including the payment of all charges owing hereunder other than rent shall remain in force and effect on said month to month basis.

ARTICLE XXIII
WRITTEN AGREEMENT

This Lease Agreement contains the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by resolution approved by the Board of County Commissioners.

IN WITNESS WHEREOF, LANDLORD and TENANT have caused this Lease Agreement to be executed by their respective and duly authorized officers the day and year first above written.

FALCON TRUST AIR, L.L.C.,
a Florida Limited Liability Company

WITNESS

WITNESS

By: _____
Albert Sotero, MGRM (LANDLORD)
Falcon Trust Air, L.L.C.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
George M. Burgess (TENANT)
County Manager